

FILED IN CLERK'S OFFICE
U.S.D.C. - Atlanta

DEC 29 2023

KEVIN P. WEIMER, Clerk
By: *Craig R. Rector*
Deputy ClerkIN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISIONRECV'd
FILED IN CLERK'S OFFICE
U.S.D.C. - Atlanta

DEC 29 2023

KERRY MCAULEY)

Plaintiff,)

v.)

J.T. WILLIAMS and S.R. LEVY,
P.B. DWYER, and V.R. PHILLIPS,
in their individual capacities.)

Defendants.)

CIVIL ACTION NO.:)

) COMPLAINT AND
JURY TRIAL DEMAND**COMPLAINT**

COMES NOW, Plaintiff Kerry McAuley and files this Complaint for damages under 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments of the United States Constitution. In support thereof, Plaintiff states as follows:

INTRODUCTION

1. On December 29, 2021, numerous police officers including Defendants Williams, Levy, Dwyer, and Phillips used excessive force when they arrested Plaintiff and denied her essential medical care during her arrest.
2. The actions done by officers were done without justification for such actions.

3. There was no objectively reasonable need to use excessive force or to deny Plaintiff medical care.

PARTIES

4. Plaintiff Kerry McAuley is a resident of Florida.
5. Defendant J.T Williams was employed by the Sandy Spring Police as a police officer in December 2021. At all times relevant to this lawsuit, Defendant Williams acted under the color of state law.
6. Defendant S.R. Levy was employed by the Sandy Spring Police as a police officer in December 2021. At all times relevant to this lawsuit, Defendant Levy acted under the color of state law.
7. Defendant P.B Dwyer was employed by the Sandy Springs Police as a police officer in December 2021. At all times relevant to this lawsuit, Defendant Dwyer acted under the color of state law.
8. Defendant V.R. Phillips was employed by Sandy Springs Police as a police officer in December 2021. At all times relevant to this lawsuit, Defendant Phillips acted under the color of state law.

JURISDICTION AND VENUE

9. This case presents a federal question under 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments of the Constitution. This Court has subject

matter jurisdiction under 28 U.S.C. § 1331.

10. Upon service of process, this Court acquires personal jurisdiction of the Defendants under Fed. R. Civ. P. 4(k)(1)(a).

11. Venue is proper in the Northern District of Georgia under 28 U.S.C. § 1391(b) because all acts occurred within this District.

FACTUAL ALLEGATIONS

12. On December 29, 2021 I asked for an ambulance at my arrest prior to being in their custody through my window for my life threatening recently diagnosed rarest genetic mutation of an auto inflammatory disease. It is incurable triggered by emotion and stress my acute life threatening attacks this department was advised. I was denied an equipped AMR and continued to be denied and immediate transportation in my obvious acute state of distress “crying pleading to help me” I am going to die” please give me my injection over and over in my purse they took. Only to be denied medical treatment as the evidence of the camera video’s will prove. My eyes were swollen my face my throat was closing I told them and Levy in video just ignored. I required my prescribed EPI pen and Benadryl injection I keep in my purse in my emergency medical bag. I told them and Levy my heart is burning please take me to the hospital “I am going to die” I have this rare genetic mutation

hysterical, crying gasping for air with my asthma caused during an acute attack, handcuffed to the gurney in the AMR knowing I am helpless and doomed, one cannot imagine what this feels like. I ask all of you to watch the videos to the end and tell me this is not denying me medical attention as I know a jury will agree and award me all my damages I am seeking. They are all trained to know when someone is in real distress and did not take action. If Levy only ordered them to give me my purse to take my medication this all would have been prevented but they tortured me emotionally with such mental anguish and caused me my damages that was unnecessary. I was also denied my daily biologic injection of Anakina kept in my refrigerator Sergeant Levy denied me needed to try and block my abnormal cell from the inflammation attacking my body and if it attacks my organs it is fatal. He sent Detective Phillip's in my property to get my keys but not my injection to save my life at risk. Levy not a doctor told me I can get this in the ER and I told him they will not have this it \$9000 a month and I get from the company. They went into my property to get my keys but not my injection to save my life. The torture and my suffering continued as one can see in these police camera video's that will be presented as exhibits and evidence how rapidly I worsened to an acute anaphylaxis state again

pleading for them to give me my purse 'I am going to die my throat is closing". I kept asking what did I do, what is harassing communication. I told them I have a history of TIA's transient ischemic attacks requiring immediate medical attention to distinguish from an actual stroke. The AMR was ordered from radio after reporting my vital signs to take me "now" to the closest ER because I had stroke symptom's. They told me Levy had to make this call. This continued as evidence will conclude and Levy should have called an equipped ambulance, he should have given me my injections in my purse he took I begged for and let Phillip's get my injection needed in my refrigerator and taken me to the closest ER and did none of these things. My vital signs and acute state as seen in the video's and especially in the AMR telling my daughter, Kay in Phillip's camera I love her if I do not make it and gets justice against all of them is heart wrenching. The other thing I watched in the video not remembering going unconscious Phillip's asking what is this will my tongue hanging out of my mouth moving rapidly and they still did not take me to the closest ER. I was watched like a hawk like I am the most wanted a very ill 60-year-old upper middle class woman with no criminal history by Dwyer and Phillip's in the ER. I was handcuffed over 24 hours with sores caused from my mutation begging them to loosen

because they are hurting me. The charge nurse pleaded with them to remove my handcuff's so she could take me to the bathroom and they said no. She got angry stating "look at her do you really think she is going anywhere she cannot even walk of function." They caused my fall off the toilet and I went unconscious and the emergency team was called and sternum CPR was performed because I could not wake up but could hear everything. I had such soft tissue injuries and scans because of this getting so much radiation exposure I try and avoid. Dwyer and Phillip's were standing outside the door trying to go into the bathroom and the nurse told them no. I constantly asked all of them during my arrest and in the ER making sure their cameras were on knowing what they caused my life. I was denied by Levy to be taken under my circumstances and rare case to Emory, St Joseph's where I am a patient and closer again telling him I have insurance and again "I am going to die please do not take me to Grady terrified all the way downtown." Can you imagine your heart pounding and you are gasping for air and your body goes numb and you are burning and praying "God please let me live as a devote Christen I told them "why are you doing this to me what did I do?" Suffering is not even the word for what they did to me it was hell and I saw my life flash and experienced a near death experience when I awoke from

being unconscious. I was later diagnosed by Grady who offered me counseling during Covid over the phone with PTSD caused by such medical neglect police brutality after this incident. I suffer these near death flashbacks awaking me almost every night since this trauma. My life will never be the same having more severe auto inflammatory attacks and major weight gain, depressed having this major stress factor out on bond for something I did not do what they did and got away with it. I was finally able to function December 29, 2021 in remission prior to this watching the news just after 8pm preparing for my New Year's Eve gala. When flashlights and 4 blue lights police cars and over 5 of them that I know of were banging down my door threatening to remove it if I did not open up. I went to my window terrified knowing their corruption went too far to shut me up from my mother's continued neglect in this Sandy Springs new memory home being denied 911 in November later explained in history. At first I thought Detective William's went over board to serve me this cease and desist I never heard of when he called after 3pm asking me why I e-mailed the Chief that I was not allowed never receiving a warning nothing. He states in correctly in the discovery of this first misdemeanor my contact City attorney, Kathy William's e-mailed me this August 25, 2021. I do not

remember this and saw it in discovery only asking that I dismiss no “daily” contact which I was not doing in the first place and had the right in this open elder neglect case I reported to 911, July 5, 2021 to provide evidence. I asked Phillip’s for this warrant denied promising to give me if I opened my door and did not as video will prove in evidence. They were harassing me and my daughter who had nothing to do with this in Charleston as the recording of Phillip’s call to Kay December 30, 2021 day after I was arrested now threatening her as evidence will also confirm. Making us their subject’s in my mother’s investigation is bizarre. Levy came December 30, 2021 to release me because I was waiting in a full hospital during Covid to be admitted for acute vertigo stated in record by doctor’s this was caused by the police incident. I sent Kathy William’s the evidence after I got out of Grady including the video of what Phillip’s did to Kay proving this corruption I tried to get an investigation day’s prior to my false arrest just ignored. Levy told me the Chief said they are not paying for your Grady bill this is pre-existing actual stated in their discovery proving they knew about this and denied me the emergency medical treatment I required causing all these damages am claiming. I asked him for my property having no cell or a way to get funds in my purse I was denied after released another violation of

my rights. Dwyer after released told me I had to give him my expensive jewelry a Rolex. Diamond 2 karat gold diamond necklace my diamond ring making no sense since I had this on since my arrest another violation. They were angry threatening me the whole time trying to recover helpless on the gurney handcuffed "they are taking me to Fulton County jail after I get medical clearance but I did not get medical clearance for what they caused me medical neglect. I was finally admitted December 30, 2021 late that evening in the new week old wing in a private alcove I required with my mutation and immune deficiency and Covid. After 11:30PM I was told my doctor is moving me upstairs and I was put in a room with a very sick coughing Covid patient I found out when it was too late already exposed. The doctor the next day asked me who moved me here very upset telling me he did not. He discharged me telling me to go to Emory and try to get admitted through ER but there were not beds during Covid. He told me to contact Grady's risk management for investigation we believe Detective William's had something to do with this. Now because of them I was exposed to Covid and if they gave me my medication this would have never happened. Kay called William's asking to pick up my property they denied me after released. He told her I had to give her POA to pick up not true and

refused to tell her what hospital they took me worried about me with her own congenital terminal rare heart condition I also informed Kathy William's. The stress they caused Kay and what William's did falsely filing complaint with her internal affairs as a new officer for City of Charleston. My daughter who trained months to pass the hardest physical exam to become a police officer because she said she rather die in the line of duty then from her heart helping people. He also went after Kay like he did having me falsely arrested destroying my life. Kay will be an excellent witness in this case who was on the phone during my arrest hearing them hurt me as they grabbed my cell. Kay should have filed a law suit against you but is busy with her life and told me she will support me. My health has worsened since my arrest and stress this has caused my life that triggers these attacks. I am now going to require an early independent home and assisted living and can no longer live alone from my night terrors and near death PTSD trauma I still suffer. I will give you the chance to settle this with me before I go public with the media about our story. I am so sure a jury will award me my many damages after they watch the video's. I had to get justice to try and put this trauma behind me you continue by not dropping this case that should never have had a warrant with no evidence hearsay.

I want to state the history which lead up to this medical negligence at my arrest of negligent actions of Chief De Simone, Mayor Paul, Detective William's and City attorney, Kathy William's that will be named in my civil suit after this criminal case is justified or dismissed of the 2 year statutes. The arrest warrant names the wrong charge of telephonic December 16, 2021 which were 3 e-mails as stated in their discovery of Detective William's and 2 were photos of my mother's continued elder neglect. In this case 911 refused to take stating Chief DeSimone said case closed not allowed to take your complaint about November 2021 my 911 call they hung up on me I suggest you listen to all evidence because this is unbelievable but the evidence was is there just like in my mother's investigation they ignored. Another violation no one should be denied a 911 call investigation and I sent the Chief the complaint December 16, 2021 and the 2 photo's 911 denied me and I got arrested. The warrant only states December 16, 2021 3 e-mails 2 photo's stated by Detective William's in discovery not telephonic. The arrest report is limited no names of everyone there and the Chief's age 22. The fact this Chief's assistant Officer Sandy told me to contact the Chief about this complaint through his e-mail providing it to me. The fact Detective

William's I never heard of called harassing me December 29, 2021 about 3PM threatening he could have me arrested for e-mailing the Chief. Where is this call he stated was being recorded as I made sure in disbelief like the one he also made to Kay threatening her new job December 30, 2021. This is insane since Officer Sandy advised me to do this apologizing on the Chief's behalf surprised he had not returned the messages. The urgency in tears on the phone with her of how I found my mother when I got back from FL. The text from the staff of the photo of mom's injuries they said my sister was ignoring. If Chief DeSimone would have returned my messages to discuss the plan on how to proceed with this all of this before I reported this July 5, 2021 this would have been prevented but he never did. Sandy will be an excellent witness for me. If Mayor Paul would have also returned my urgent messages after meeting him at a Sandy Spring's event telling me to contact his office only to be ignored this would have been prevented. I tried to tell him about this corrupt investigation and what they were doing to me and Kay. If Detective William's would have done as he said in phone call December 29, 2021 and served me this cease and desist I never got this would have been prevented. I asked him to serve me this because I had no idea what he was talking about. I had rights like every other Sandy Springs

resident tax payer to e-mail this Chief. Especially since Officer Sandy told me to contact him this way. Detective William's said he will serve me this and instead he had me falsely arrested hours later as if I was the most wanted criminal and one would wonder why I went into an acute life threatening attack they caused me. It was unbelievable I did not know what I did never hearing of harassing communication's and they denied telling me what I did. As they were threatening to remove my door I was trying to call Kay and I lost control of my bodily functions and I urinated in my pants. I am lucky I did not have a heart attack or full blown stroke. I later in August 2022 I required surgery in my left palm removing my bone caused from this stress. The worsening of my osteoporosis and the inflammation this caused attacking my bone. The handcuff's hurting me denied to remove and in record hurting my left palm during arrest. I would never have gotten to this acute state if they gave me my Benadryl injection in my purse and Epi pen they denied me when my throat was closing and my injection required in the house. The fact the video shows me unconscious in the AMR with nothing but oxygen it should never have gotten to this point. An equipped ambulance and medical back up should have been called immediately and was not. I should have had the rights in their custody and not when I requested this

telling them in video I am having a life threatening attack from my window I am going to need an ambulance and need medical attention denied. The fact I was unconscious and did not know this until I watched this video's angered me more what was done to me for sending this Chief 3 e-mail's December 16, 2021 his assistant Officer Sandy told me to e-mail him a better way to reach him were her words. I was arrested because I called, Kathy William's days prior to my arrest in a 3-hour conversation after hours about the report she finally sent me about December 22, 2021 denied when closed in August no one advised me from my 911 call July 5, 2021 reporting this. I was in disbelief of their investigation making myself and my daughter, Kay Salomon their subjects not this new owner of this Sandy Springs business memory home or my sister medically neglecting our mother's care as the staff told me in evidence just ignored. The fact they violated my rights to protest making me leave on video about July 7, 2021. Making me get a permit and restricting my hours and days and revoking it the same day the detectives advised the owner and my sister 2 weeks later after protesting to file a stalking and restraining order petition to prevent me from protesting. The fact I told Kathy the detective investigating this case is the one would served me is bias and unethical. I could not believe this bias corrupt

investigation and Detective William's had me blocked by every City employee in July 2021 during this open investigation he states in his discovery I learned. Kathy William's stating in e-mail December 30, 2021 she had me unblocked and I can now contact her. Denying knowing who did this it was William's says it all in the corruption and interference of my mother's elder neglect. Kathy William's in our conversations days prior to Chief De Simone charging me with harassing communication's told me the Chief is angry you cost him money protesting he will not be happy you are asking for an investigation of this investigation. Kathy mislead me letting me think she was going to resolve this and help me see my mother instead I am arrested with no warning and mislead by Detective William's telling me he will serve me this cease and dismiss but instead he gets a warrant that had no evidence a favor obviously. The fact Detective King assigned to this case I reported never contacted me or met me. She posted photos from my Facebook of my daughter, Kay's police academy graduation in uniform from the City of Charleston. She was provided Kay's information in this report but still humiliated Kay looking for to question this officer knowing her information was bizarre. The recorded call about July 12, 2021 to Kay from King is evidence that this investigation was sonot concerned about my

mother's neglect but about my mind set in asking my daughter why I was protesting. Again this evidence speaks for itself like the rest. King only asked about her mother not one question about this investigation of my mother's elder neglect. Kay and I both reported King to internal affairs. The day after Detective William's had me arrested he called Kay and she recorded this call December 30, 2021. Again this evidence speaks for itself. He told Kay he can report her to her internal affairs as she did King about July 2021. This department from July 2021 wanted revenge of this corrupt detective on both of us in my arrest December 29, 2021 and Kay's harassment December 30, 2021. I am the one arrested for harassing communication's again how insane. This new Sandy Springs business owner claimed he had high powered friends in the department and City that would protect his business and they did. This investigation report speaks for itself finding no elder neglect a felony when the evidence was all there and staff's recording. Let a jury decide this and such damages this neglect of medical treatment caused my life these last 2 years. I was treated like the most wanted when they arrested me and denied medical care on the scene and an equipped ambulance as I asked from my window prior to in their custody. Why was I denied an equipped ambulance even if in their custody is the

question? This is how George Floyd died and my case will get the attention it deserved if not settled. Since I was arrested I was not able to live in my townhome I once loved in Sandy Springs raised in this area. My fears and psychological problems I never had are now controlling my life and my mutation making me very ill and most days I cannot get out of bed from not sleeping with my terrors. I also suffer vertigo caused by this trauma as stated by the doctor in record I also sent Kathy that never went away and I may have for life I am told. I lost visiting my mother over two years who died September 22, 2023 from elder neglect of my sister with POA not treating mom's UT infection who had lost her rights to live. I had to watch my mom dying 2 days gasping for air it was the most horrible thing I ever witnessed. They did not FaceTime me with my mother ordered by the court MWF for 3 weeks. My sister was ignoring my calls and messages on why I have not heard from mom. By the time they did I knew mom was dying and it was too late. I lived in fear of contacting the police department being told by Detective William's now "after" my arrest he e-mails me this cease and desist after my arrest on January 6, 2022. For the record I called attorney Mr. Lee's assistant crying asking for my property now that Levy released me refusing to return my property I needed having no phon4e or numbers and

no way to get my funds. I gave her Kay's number on December 30, 2021 the only one I could recall in my state in the hospital. Detective William's refused to tell Kay what hospital I was. In his discovery of my arrest he states he turned my cell in January 6, 2022 and told Kay she needs a POA from me to release my property another lie and violation. I went to my boyfriend's house where I had to isolate 10 days unvaccinated in my record by doctor I again provided Kathy William's representing the police department. I called 911 on the 5th day for the record of this recorded call since Levy told me I had to turn myself in to Fulton County jail so scared Levy told me they will come get me again on the 5th day after discharged. I became agoraphobic unable to leave the house recovering from Covid which I never recovered having long term Covid. They put Detective Phillip's on the call harassing me again as this evidence will confirm. He lied stating in I also sent Kathy that they gave my jewelry to my friend the night they arrested me to my friend watching my dogs they brought my keys. Again this corruption and evidence speaks for itself. My jewelry was removed by Dwyer when I was released in the ER in record on December 30, 2021 taken from me after I was released. My boyfriend went to the police department before the 10th day not asked for a POA like Kay and told and was given my

property all there. I went on the 10th day and turned myself in and my torture and suffering continued. I was denied medical attention and fainted and was dragged by my legs and stripped naked and put in a jail jumper and locked in a cell with feces and urine all over alone for 9 hours. I could not breathe and pleaded for help medically again knowing I can die not having my medication needed having my asthma from the smell of the cell. I was moved the next day to the medical floor put in with an inmate that was there over a year for beating up the last roommate. I gave her my white bread and food in exchange to use her phone card I did not have. She got the guard to let me out to make a call to Kay to tell her what they did to me and I was still in jail to call my incompetent attorney I paid and all my legal fees in this case those named caused me. Since this was my first charge I did not have to pay a bond but have been like am on probation checking in with my officer monthly and my restrictions for a crime I did commit. Medically from this I am just trying to stay alive and my Rheumatologist told me he really was worried I was going to die the last two years from all this. I e-mailed the Chief a letter from my board certified MD stating I am not bipolar or have any diagnosis my sister and brother gave me in this investigation report in disbelief telling the detectives I was making this up when the evidence was

there. This is why I wanted to talk to this Chief I was denied to explain my siblings feel mom is better off dead as my evidence even proved my sister stating this. They really believed this but the evidence of mom's recent video's stated she wanted to live. They were greedy and wanted our trust not to be waste in memory care since 2015. If he only retuned my call and met or spoke to me so I could prove this why they did this stated in this report. My mother's life was lost and mine ending sooner because of what they caused my health knowing I was very ill should be the crime. I want my life back taken from me destroyed and this charge dismissed and a settlement for all my damages because the evidence is there. I will never be the same after what was done to me and my trauma from being put in Fulton County jail 2 nights one of the worst jails in the country. Please give me my life back you took my daughter, Kay needs her mother I am dying slowly from this.

COUNT I

Excessive Force

Under 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments

13. Plaintiffs repleads paragraphs __ through __ as if fully set forth herein.
14. Defendants fit the definition of a person for the purposes of a Section 1983

action for damages.

15. At all times material hereto, Defendants' actions and/or omissions were made under the color of authority and law as officers for the Sandy Spring Police Officer.
16. On or about January 13, 2021, Defendants violated Plaintiffs' clearly established constitutional rights, to wit: by using excessive force in Plaintiff's arrest.
17. Defendants violated Plaintiffs' Fourth and/or Fourteenth Amendment Rights under the United States Constitution to be free from excessive force.
18. There was no objective need to use excessively unreasonable force against Plaintiff.
19. At the time of the application of force, Plaintiffs were unarmed and presented no threat to the officers.
20. The amount of force used was excessive, unreasonable, and unnecessary under the circumstances.
21. Defendants and other officers demonstrated a deliberate indifference to and/or reckless disregard of Plaintiff's civil and constitutional rights by their use of force against Plaintiff.
22. Plaintiff suffered serious mental trauma and psychological distress as a

result of the use of excessive unreasonable force by Defendants.

23. Defendants actions and use of force, as described herein, were objectively unreasonable in light of the facts and circumstances confronting them.
24. The force used on Plaintiffs was gratuitous and unnecessary and served no legitimate law enforcement interest.
25. Defendants acted with malicious intent when they subjected Plaintiffs' to grossly excessive force.
26. Defendants use of force was not undertaken in good faith.
27. On December 29, 2021, the law was clearly established that law enforcement officers were prohibited from using excessive force to apprehend and intimidate suspects unless the suspects posed an immediate threat of serious physical harm.
28. Defendants actions and use of force, as described herein, were malicious, oppressive, and taken with reckless disregard to Plaintiff's constitutional rights such that Plaintiff may recover punitive damages against Defendants.

COUNT II
Denial of Medical Care

29. Plaintiffs replead paragraphs __ through __ as if fully set forth herein.
30. Defendants fit the definition of a person for the purposes of a Section 1983

action for damages.

31. At all times material hereto, Defendants' actions and/or omissions were made under the color of authority and law as officers for the Sandy Springs Police Department.
32. On or about December, 2023, Defendants violated Plaintiffs' clearly established constitutional rights by denying her essential medical care in the course of her arrest.
33. Defendants actions in denying Plaintiff Medical care were objectively unreasonable in light of the facts and circumstances of the arrest.
34. Defendants acted with malicious intent when they denied Plaintiff medical care.
35. Defendants actions were not undertaken in good faith.
36. On December 29, 2021, the law was clearly established that law enforcement officers were prohibited from denying those in their custody essential medical care.

WHEREFORE, Plaintiff demands the following:

- a) That this action be tried by a jury;
- b) That judgment be entered in favor of Plaintiff and against Defendant in

an amount to be determined by the enlightened conscience of fair and impartial jurors to the extent allowed by law;

- c) That Plaintiffs be awarded nominal, compensatory, special, and punitive damages when applicable;
- d) That all costs of this action be taxed against Defendants; and
- e) That the Court award any additional or alternative legal or equitable relief as may be deemed appropriate under the circumstances.

JURY DEMAND

Plaintiff hereby demands a trial by jury on this matter on all counts to which Plaintiffs are entitled to a jury.

Respectfully submitted this 28th day of December, 2023.

Respectfully Submitted,

/s/ Kerry McAuley
PLAINTIFF

561-248-7329
1270 NW 4th Ave
Boca Raton FL 33432
sincerelykerry2@aol.com